

Freedome.

O R,

The Description of the Excellent Civil
Government of the Island of

J E R S E Y

*P*UBLISHED

By *James Stocall* Esq; Collonel of a Regiment of the Trained Bands of the said Island, consisting of 1500 men.

Under the Government of the Honorable Collonel *Heane* Governour thereof, for the service of the Commonwealth of *England*.



London, Printed for Robert Ibbitson. 1652.

1860

to the Editor of the London Standard
Government of the United Kingdom

J. R. S. E. Y.

By the Secretary of the Admiralty
The Admiralty, Whitehall, London

The Admiralty, Whitehall, London





To the
Right Honourable, Lieutenant
Gen. *Fleetwood.*

Noble Lieut. Generall,

Such great multitudes of men are daily importuning you, with their implorations of Your favour and assistance, that I still judge it more expedient, and lesse troublesome, to present mine in writing, to your Honours, to waite (as I desire this description of the Civill Government of Jersey may doe) for your best opportunity of consideration thereof. Truly Sir, now it hath pleased the Lord to bring me safe againe here, from the reduction of that Isle, I have thought it a part of my duty, having been bold to promise ~~to~~ you heretofore; and having found you so cordiall to bring that to passe, so ready, diligent, and compassionate, to help our poore Country-men out of their eight yeares exile, and generally all the people of that place, out of a most Tyrannicall bondage; All which your Noble deeds are well knowne there. For your Heroicall Actions every where, for the Common-wealth, have made your care of Mercy, and Justice, so highly famous, that it begat, in the poore Islanders, strong hopes of your media-

The Epistle Dedicatory.

tion towards the Parliament, for the Patronization of their hitherto (since the Divine Common-wealth of Israel) unparalleled Freedome.

Michael Lemptiere Esquire, the Bailly of that Jurisdiction, did lately send an Accompt of the said Government, to the Parliament, also particularly the same to the Counsell of State. and to my Lord Generall; but while he was intending one for your Honour, the sad newes of the decease, of your Noble, and most Christianly vertuous Lady, did cause him to forbear; judging it unfit to adde then trouble to your trouble. by any importunity. I must acknowledge, the same consideration hath made me so much backward from presenting my selfe before you, since my arrivall; not any forgetfulnessse of the respects I doe owe to your Honour. It is true, you were at first in the Country; yet now, that I hope, the Lord hath been pleased to begin to stirre up againe, in your heart, the power of that holy Spirit called the Comforter, to moderate your just sorrow, in a measure according to his will; and that the publique good of my Country calleth upon my Conscience, I must infringe somewhat the rules of Civility, and importune you with these Lines, which are abrupt, because my particular Obligations could not let me be free from sadnessse, when all honest people suffer a losse, whereof you suffer the immediate affliction. In this Description, which is not different from that sent by the said Bailly, but only in few things, which he, for brevities sake, omitted, and I have added; it being true, that the true description of a thing must be like the same thing it selfe; you will see a great excellence of Government, in respect of all other Governements practised, since the Common-wealth of Israel.

First, because the People doth freely use to chuse, and elect all their Officers, except very few, which were some at the Kings, others at the Baillys denomination.

Secondly, Because the Sufferers can procure the execution of our Lawes against any one that wrongeth them, at very small expences, and indeed, ordinarily for nothing; the Guilty being alwayes sentenced to all the Charges, and Damages he hath caused.

Thirdly,

The Epistle Dedicatory.

Thirdly, Because the way and meanes to prosecute Justice in that Island is plaine, common, and easie, full of Humanity, Gravity, and Civility, and short, without Circulations from Pilate to Herodes, and from Herodes to Pilate back againe; All in the naturall Language of the Inhabitants neverthelesse very Maiesticall, consequently terrible as much as possible to Evill-doers, and comfortable to the lovers of Righteousnesse, the true use of the sword of Magistracy.

Fourthly, because there is a sufficiency of Officers to doe all Functions requisite for the procurement, propagation, and preservation of the publicke good, not onely in necessities, but in contingencies also; and that so prudently, that every Parish, being divided into convenient Divisions, hath in each at least an Officer, which over-seeth it, and keepeth the wicked in awe so, that no Vagabond, or idle Fellow, can be lurking any where to commit vices, and not be taken notice of presently, and prevented, or apprehended; the poore and the sicke visited constantly, and taken care of by due distributions from the Treasure of the Parish, and otherwise. By this meanes also, all Orders, and Ordinances of the Magistrate, Civill and Military, are ordinarily published, and made knowne to the people with much ease, and without charges to the State, at their very houses; which may be done in few houres all over the Country; although there is used also a gen:all way of Proclamations at the Market place, in open Market time, and on Sundaies, immediately after Sermon, in their Parochiall Assemblies, so that in three houres all the people useth to be in a Body, under their Armes, for their defence. After notice given so orderly, none can plead cause of ignorance; Collections and Levies of Men, or other things whatsoever are by this meanes presently done, without charges to the State. A good distribution is necessary, to governe well.

Fifthly, Because the Lawes used in the said Government are very few, but sufficient, distinct, cleare, short in Maximes, or Sentences, knowne of the very poore silly Women, most of them very excellent; Those that are not so, may be abrogat-

The Epistle Dedicatory.

ted for future time, and better ones made in their
roome.

Lastly, No false Bargaines, Sales, or Cheating convey-
ances can be made in that Government.

Pray read it, compare it with all others, and I am confi-
dent, you will esteeme it worthy the consideration of every
good Common-wealths-man; and pardon freely,

SIR,

London, March, 1.
1651.

Your very much obliged,
and sincere humble
Servant

JAMES STOCALL,

The



THE
Description of the excellent Ci-
vill Government of the Island of
J E R S E Y.



He Island of *Jersey* is divided in twelve Parishes, every one of those sub-divided into severall Divisions called Vingtaines.

In each Parish, there is a Constable, a Centurion which is as the Constables Deputy; as many Vingteniers, as there are Vingtaines, who are subordinate Officers to the Constables, to execute those Warrants, which are sent them, by him who receives them first, either from the Governor or Bailly, There are besides those, other Officers called Sermentez, or Jurors to make up the number of Twelve with the Vingteniers in each Parish. Those Twelve with the Constable, make up a petty Jury, to indite, or free criminals, when they first present them in Court. The Constable and these Officers have power to search out and seise all manner of Malefactors whatsoever, every one in his Parish, and present them to the Bailly, and Justices to receive condigne punishment.

There are also two Procurors or Attorneys of the publick Revenue and Treasure of each Parish, which are accomptable to the Constable and those Officers, which have the dispensation of the same, as they represent the parish.

Besides there is a Provost in every Parish, as the name signi-

signifies Warner, so their Office is to Summon, or Warn any Parties, who have Suites in Law together, to appear before the Bailly and Justices, who decide those differences. Those Summons are in a very short and pithy forme, either written by the parties themselves, or any body else; Provided, that he that writes them, must subscribe them. And the Provost warneth the parties, in many causes for nothing, in others, for a penny.

Moreover there is in every Vingtaine, one Sermenté Juror, or sworn man for the High-ways and common-paths, to see them duly repaired, and in order.

All these Parochiall Officers are elected and chosen by the Votes of all the Parishioners, great, and smal, poore, and rich; then presented to the Bailly, who giveth them Oath to exercise their severall Functions.

The whole Island is generally ruled by the great Court (so called in relation to inferior Courts, of which hereafter mention shall be made) held in a fair *Cobue*, or Court-House erected for that purpose: The Assembly there consists of the Bailly, Twelve Jurates or Justices, the Kings Procurator or Attorney (so called heretofore) the Kings Advocate or Solicitor heretofore; the Vicount, or Sheriffe; the *Greffier*, or Clerk of the Court; the *Denuntiator*, or Under-Sheriffe; five or six Advocates, at the Baillys discretion, an *Huissier* or Door-keeper. The Bailly heretofore was nominated by the King, and had his Patent under the Great Seale of England: He is the Head and President of the Court, collecteth the voyces of the Jurates and pronounceth the Sentence, according to their plurality, but if equality, then he hath the casting voyce.

The twelve Jurates, or Justices are chosen by the suffrages or voices generally of all the Islanders, without exception, and sworn in the Court by the Bailly. The Procurator, and Advocate were named by the King: their Offices was to plead for the Kings Rights, and to see all manner of crimes punished: They might also plead betwixt party and party. The Vicount was also nominated by the King

Freedom.

3

King, his Office was, to arrest and imprison Debtors, after Judgement of Execution given and never before, to seize goods, when he is so appointed to do, by the Court, and to sell them at the Market place, on publick dayes to those who wil give most, to be applied for the payment of Creditors, who may redeem them fourteen daies after; He taketh Inventories of Orphans goods; and sometimes selleth them at Out-cries, for their use and behoofe; he is Clerke of the Market, hath the care of all sorts of Measures, for dry and liquid Wares; Hee lookes to the Water-Courses of Rivolets and Brooks, with some Officers with him, that all might be in good order, for the benefit of the Inhabitants; He is also Crowner, and Cryer of the Court. The Denuntiator hath the like power in the Vicounts absence, with many other cares conducing to the accommodation of the Islanders. The *Greffier* or Clerk of the Court doth inrole all the Sentences pronounced by the said Bailly: And that *sedente curia*, in very faire Register-Books, of which he hath the keeping, as of all the ancient Records, Archives, Priviledges, Franchises, Liberties and Immunities heretofore granted, to the Inhabitants, by the late Kings and Queens of England, under the Bailly, who hath that care from Superiour Authority. The Advocates Offices are to plead for parties, which they doe for very small and easie Rates, *viz*, six pence, by reason that the people of all Sorts and Sexes and upon all manner of Pleas may, and doe plead their own Causes, and have as much audience as the Advocates themselves.

There is also another Officer of high concernment, in the Island, called *L'Enregistreur*, or Register, who doth Register all, and all manners of Deeds, which passe under the common Seale of the Isle, as partitions of Lands, or Wheat-Rents, either in Fee-Farme, or for ready mony, Letters of Attorney, Morgages, Bonds, &c. for three pence each. All which, are written in a compendious manner, without Equivocations, or Lawyers Quid-

dicies, and passe all by Oath administred to the Parties, by the Bailly, in the presence of one or more of the Jurates; neither to do or cause to be done any thing against their Demites, upon paine of perjury; all written in our naturall tongue; Neither are the Deeds Authentiques, unlesse the Bailly and two Jurates, at least, are signed in them, besides the Seal. Of this Seal the Bailly is keeper, but it is sealed in a Bag, by some of the Justices under their seals, and not opened, but in their presence: The Impresse of it is three Lyons Passant, with an Inscription bearing *Sigillum Insula de Jersey.*

The nomination of the Gressier, Denuntiator, Register, Inferior Advocates, Huissier, belongeth to the Bailly.

The great Court is kept very solemne at their Assizes or opening of their Courts in the beginning of the Termes: The Governour being present to answer for those Lordships, that owe their Compearance or appearing at the said Assizes, whereof there is a good number: Likewise all the Justices and Officers of the Court, with the Provosts, and other Lords of Mannors, which hold in Capite, and other Frank-Tenants, which are duly called according to their Ranks, And Fines set upon those which doe not appeare; And if they failed foure times together, their Lands were put in the Kings Possession.

They keep three sorts of Courts, (though with the same Judges, viz.) The Court of *Heritage*, the Court of *Cattell*, and the Court of *Remedies*, or the Court *Extraordinary*. In the first Court is treated of Inheritance, as partitions of Lands betweene Co-Heires, and in fine of all differences, which do arise for Lands, or any Rents that are for ever. The benefit of retyring of Inheritance sold, is granted to the first of the kindred, that doth claim it within a year. In the second, called the Court of *Cattell*, first of all, Criminall Causes, which are determined definitively without Appaele (except those of High Treason, the cognizance

Freedom.

5

hance of which, the King reserved to himselfe) but are judged with the greatest Discretion and Favour that can be imagined. For first a Malefactor being brought before the Judges, by the Constable and his Sermentez, which make the petty Jury (before mentioned) if they have found the Malefactor seized of any Goods, or vehement suspicions (after examination of Witnesses in their presence, they having the freedom to refuse any of them, upon evidences of hatred, or malice) either of Theft, Murder, or Witchcraft; then their Verdict is, That they thinke in their Consciences they are guilty of the Fact, which is called Indictment; whereupon the Parties so indicted are demanded, Whether they will be tried by the Bench, or the Country? by the Bench is meant the Bailly, and the twelve Justices, whereof there must be seven of them at least of one opinion, to Condemne a man; by the Country is understood, an Assembly of twenty foure of the Accused's owne Parish, and neighbour Parishes, of sufficient able men, full of integrity, of those there must be twenty of an unanimous voyce, to make the Party Guilty, and this is the great Inquest.

In the second place in the same Court, called *Cattel*, is treated of Decrets, for the most part; (which is) That in case a man be over-burdened with Debts, and that his estate is not able to pay them; as soone as he is imprisoned for any of them, he is freed of all his Creditors, if he cometh to Court, and affirmeth upon Oath, That he hath not wherewithall to satisfie them, and leaveth them what inheritance he hath to struggle amongst them, who shall enjoy it? which is done very regularly; those who have purchased, or lent their money, the last, are the losers, and every man enjoyeth according to the priority of his Purchase, &c.

In the last Court, called, *Extraordinary*, is treated of Causes more triviall, which concern only Moveables, &c. Of the Court of Heritage, the last part of the Court of

Cattell, and Extraordinary, Appeales might be made to the King and Counsell; For moveables, not for under the value of twenty pounds Sterling, but for matter of Inheritance, there is no limitation. Appeales must be made immediately after Sentence given, yet *sedente curia*, and two sufficient Sureties given within a sennight for the prosecution of them within the time limited, which is; The said Appeales must be entred in the Booke of Counsell Causes within three moneths, and prosecuted within one year; and in case the Appealant doe not reverse the Sentence, and procure an Order from the Counsell of *Mal Jugé, Bien Appellé*, then he forfeits twenty Crownes to the Bailly.

There are likewise many inferiour Courts held in the Island, by Seneschalls, or Stewards, called *Basses Courts*, which is to say, low Courts, in respect of the great and superiour Courts; many of those Lordships doe now belong to the Common-wealth of England, others to some Gentlemen of the Isle. Of these Stewards Courts Appeales might be made to the Bailly's Court.

Upon some extraordinary and important occasion, which might conduce for the good of the Inhabitants, an Assembly of the States was called, by the Governour, or Bailly, this Assembly consisted of the said Governour, or his Lieutenant; the Bailey, or his Lieutenant; the twelve Jurats; the twelve Constables; who represented the Commons of the Country: and sometimes the twelve Ministers, who by their turbulency and brouilleries, have made themselves unworthy of that Assembly, and therefore may be very fitly desired, they may be left out, with the Bishops.

Amongst the many good and wholesome locall Customs, Municipall Lawes, and others, whereof many are agreeing with the Mosaicall; one is very remarkable, in the behalfe of the oppressed (viz.) *Le clam de Haro*; which is, That if any man, of what degree or quality soever pretends to be injured, or oppressed, either by the greatest

or lowest of this Isle, at the Acclamation three times of this word *Haro*, with a loud voyce (be it right, or wrong) the other party must surcease, though he were upon never such urgent occasions; whether he were at Cart, or Plough, felling, or lopping Trees, in a word, upon any occasion; And he that is in fault of the Accuser or Accused is fined in ten Livers *Tournois*. And if the Accused persists notwithstanding in his worke, or violence, he is also fined in the like sum, for his persisting. And likewise, if any man is within the hearing of this call, and doth not come to the assistance of the oppressed, hee is put to an Arbitrary Fine; And this is tryed at the Court of Cattell before-mentioned amongst Crimes.

This is but a short Epitome of our Civill Government, as it hath been, and we hope shall be, untill such, as would alter the same, to have their phantasies established, have given the Parliament greater Demonstrations of Policy, for Freedom, and Liberty, Mercy, and Justice, then these are; more suitable they cannot; Considered *Jersey* is inhabited, by Parishes, and the houses are built, not in Townes or Cities, but scatteredly, upon the severall Messuages and Tenements of Lands; so that those Prerogatives of appointing some Officers, which Kings had reserved to themselves, belonging now to the Parliament: there is no need of change in the Forme of the Civill Government of that Island: This I grant, might be desired, that the right of having a Representor, or two in Parliament, to the end of a stronger Union to this Nation, and of a speedier expedition of Necessaries, from that Superior Power, unto our people, were for the future allowed to *Jersey* and *Guernsey*, and that without diminution of their Freedom, Liberties, and Priviledges whatsoever, not repugnant to the safe and well-being of the Commonwealth.

To conclude, I know I need not mention any other of our Lawes here: For this may be sufficient to munish,

as by Information, all whom it concerneth, against any attempts that may bee, or have beene already made, to alter our freedom. And by this Patterne men may judge of the rest of the peece of our Lawes; for Immoveables, as inheritance; for Moveables, as Chattells; for Prevention, and Pardon, and Punishment of Crimes; for Procreation; and Education, for Measures; for Association, &c. they are but few. Neverthelesse many circumstances, which to describe them fully should be inserted, would require a greater Volume, then the patience, or leasure of most men would permit them to take notice of. Therefore I will onely say this more, That once every third year, the Bailly accompanied with the Justices, the Vicount, the Procuror, and Advocate, the Constable and other the above-named Parish-Officers, doth view all the Common wayes of each parish, and where he findeth cause, doth fine the owners of Hedges, Trees, Walls, &c. Incombering the Way; or else the Serjentz for the Wayes.

Moreover all the Officers of this Government are to continue *quàm dñe se benè gesserint*, as long as they do behave themselves well; and none of them longer, for as soon as any one of them, is convict d of any Crime, as for example, Bribe or the like, he is outed shamefully: our States having made bold many times to suspend the Baillyes themselves upon like occasion, and to chuse a Judge Delegate in his place, notwithstanding his Patent under the Great Seale.

Finally, There is such good Order in the administration of Justice, That when any one hath a Cause in Law, against any one of the Justices, that same Justice must come downe, and stand with his Peers, and party Accusant, at the Barre amongst the people, so must the Bailly himself, in like occasion: Which hath therefore a Judge, chosen, appointed, and sworn by the Bench, to be impartial, in the Baillies causes. The people have alwayes chosen the Justices and Constables from amongst the best
 fort

sort, and known honestest Gentlemen, and respected them as their Fathers and Princes, honour being their rewards; except that the Justices when they signe any Deeds, are to have two souces, or two pences for their paine, if they will take them; the other Officers, they respect also very much, and use to chuse them from the best, and honestest sort of the Ycomanry. The Lord of righteousness be pleased to lead us all into it; according to these two Tests and Touch-stones of the equity or righteousness of all Laws, *Thou shalt love the Lord thy God, with all thy heart, with all thy soule, and with all thy understanding, and with all thy might, and thy Neighbour as thy selfe.* That is, doing nothing unto him, but what in the like cause, thy conscience, thy inward knower and knowledge within thee, granteth absolutely, thou wouldest have done to thy selfe. *Amen.*

FINIS.

3 AUG 1971
 U.S. DEPT. OF JUSTICE



21413





